IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 19TH DECEMBER 2007 / 28TH AGRAHAYANA 1929

Bail Appl..No. 7824 of 2007()

CP.146/2007 of J.M.F.C.,TALIPARAMBA
Cr.NO.305/07 OF TALIPARAMBA POLICE STATION

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: PETITIONERS/ACCUSED NO.3,4,6 & 9 TO 15:

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1. K.V. MUSTAK AHAMMED, S/O.MOIDEEN KUTTY,
   AGED 35 YEARS, KAKKOTTAKATH HOUSE,ALLAMKULAM,
   TALIPARAMBA P.O., TALIPARAMBA AMSOM DESOM,
   TALIPARAMBA TALUK, KANNUR DISTRICT.

2. ABDUL RAHIMAN, S/O.MOIDEEN KUTTY,
   AGED 40 YEARS, KUTTUKKAN HOUSE, ALLAMKULAM,
   TALIPARAMBA P.O., TALIPARAMBA AMSOM DESOM,
   TALIPARAMBA TALUK, KANNUR DISTRICT.

3. AMEER, S/O. ABDU,
   AGED 20 YEARS, KAKKOTTAKATH PURAYIL HOUSE,
   SYED NAGAR, TALIPARAMBA P.O., TALIPARAMBA AMSOM
   DESOM, TALIPARAMBA TALUK, KANNUR DISTRICT.

4. NASARUDHEEN @ NAJMUDHEEN, S/O.AHAMMED,
   AGED 19 YEARS, KAYAKKOOL HOUSE, ALLAMKULAM,
   TALIPARAMBA P.O., TALIPARAMBA AMSOM, DESOM,
   TALIPARAMBA TALUK, KANNUR DISTRICT.

5. MOIDU @ MOIDEEN M.P.,
   S/O. MUHAMMED KUNHI, AGED 24 YEARS, ALLAMKULAM,
   TALIPARAMBA P.O., TALIPARAMBA AMSOM, DESOM,
   TALIPARAMBA TALUK, KANNUR DISTRICT.

6. ANSAR @ MUHAMMED ANSAR, S/O.K.P.MEMI,
   AGED 28 YEARS, KATTIKKOOTTATHIL HOUSE, KARIMBAM,
   TALIPARAMBA TALUK, KANNUR DISTRICT.

7. P. USMAN, S/O. ABDULLA,
   AGED 50 YEARS, PULIYIRAKKEEZHIL HOUSE,
   KUTTYERI AMSOM,TALIPARAMBA TALUK,KANNUR DISTRICT.

8. SHAJAHAN, S/O. ABDUL RAHIMAN,
AGED 23 YEARS, POOMANGALORAKATH HOUSE,
KUTTYERI AMSOM,TALIPARAMBA TALUK,KANNUR DISTRICT.

9. SHABEER C., S/O. PATHU,
AGED 24 YEARS, CHANTHINTAKATH HOUSE,
KUTTYERI AMSOM,TALIPARAMBA TALUK,KANNUR DISTRICT.

10. VAHEED M., S/O. MOIDEEN KUTTY,
AGED 24 YEARS, KUTTYERI AMSOM, TALIPARAMBA TALUK,
KANNUR DISTRICT.

BY ADV. SRI.V.A.SATHEESH
SRI.V.T.MADHAVANUNNI

RESPONDENTS: COMPLAINANT:

STATION HOUSE OFFICER,
TALIPARAMBA POLICE STATION, KANNUR DISTRICT.
(CRIME NO.305/2007 OF TALIPARAMBA POLICE STATION,
KANNUR DISTRICT), REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA AT ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.7824 of 2007

Dated this the 19th day of December, 2007

ORDER

Petitioners face indictment in a prosecution for offences punishable, inter alia, under Section 436 I.P.C. The petitioners are accused 3, 4, 6 and 9 to 15 in that crime. At the crime stage, petitioners were not arrested. Investigation was completed. Final report was filed and cognizance was taken by the learned Magistrate. While issuing processes, the learned Magistrate had only issued summons and not warrants to procure the presence of the petitioners. Consequent to absence of the petitioners subsequently warrants of arrest have been issued against the petitioners. The petitioners find such warrants chasing them.

2. According to the learned counsel for the petitioners, the petitioners are absolutely innocent. They have been arrayed as accused only because of political animosity. The petitioners are now willing to surrender before the learned Magistrate and seek regular bail. But they apprehend that their application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is therefore

prayed that directions under Section 438 and/or 482 Cr.P.C may be issued in favour of the petitioners.

3. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which they could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police** [2003(1) KLT 339].

4. This bail application is, in these circumstances, dismissed, but with the specific observation that if the petitioners appear before the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself in the light of the decision in **Sukumari v. State of Kerala** [2001(1) K.L.T 22].

(R.BASANT, JUDGE)

rtr/-